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ARTHUR G. SCHAIER CARMODY & TORRANCE LLP 50 LEAVENWORTH STREET P.O. BOX 1110 WATERBURY, CT 06721			EXAMINER ZIMMERMAN, TOSHUA D	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JERZY KUCZYNSKI and GERARD RICH

Appeal 2010-007171
Application 10/500,635
Technology Center 2800

Before MARC S. HOFF, CARLA M. KRIVAK, and
THOMAS S. HAHN, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-17 and 19-29. An oral hearing was held February 14, 2012. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' claimed invention is a method for producing flexographic plates (Spec. 1:4-10; Abstract).

Independent claim 1, reproduced below, is illustrative.

1. A method for producing a flexographic printing plate, which has a base layer and a solid layer of a light sensitive material attached to the base layer, comprising producing an image in the layer of the light sensitive material by selective crosslinking, by insulating zones which are to be crosslinked with amplitude modulated laser light having a wavelength of 390 to 410 nm, and sweeping the layer of the light sensitive material with the amplitude modulated laser light to produce crosslinked zones in the layer of light sensitive material without the use of a mask, and, thereafter, removing zones which are not crosslinked to create the image in the solid layer of light sensitive material, said solid layer of light sensitive material having a thickness between 0.5 to 2 mm and including at least one photoinitiator sensitive to said laser light at said wavelength, wherein the photoinitiator undergoes a photoreaction under effect of said laser light to bleach the layer of light sensitive material, wherein the bleaching renders the crosslinked zones transparent to said laser light in order to enable cross-linking throughout the thickness of the layer of light sensitive material.

REJECTIONS

The Examiner rejected claims 1, 2, 5, 13, 15-17, 19, 22-25, 28, and 29 under 35 U.S.C. § 103(a) based upon the teachings of Appellants' admitted prior art (AAPA) and Teng (US 6,541,183 B2; Apr. 1, 2003).

The Examiner rejected claims 3, 4, and 27 under 35 U.S.C. § 103(a) based upon the teachings of AAPA, Teng, and Cohen (US 3,264,103; Aug. 2, 1966).

The Examiner rejected claims 6-12 and 26 under 35 U.S.C. § 103(a) based upon the teachings of AAPA, Teng, and Kuczynski (US 2003/0054153 A1; Mar. 20, 2003)

The Examiner rejected claim 14 under 35 U.S.C. § 103(a) based upon the teachings of AAPA, Teng, and Robinson (US 5,795,647; Aug. 18, 1998).

The Examiner rejected claims 20, 21, and 26 under 35 U.S.C. § 103(a) based upon the teachings of AAPA, Teng, and Francille (US 5,706,731; Jan. 13, 1998).

ANALYSIS

The Examiner finds AAPA discloses all of Appellants' claim limitations except for laser light having a wavelength of 390 to 410 nm and relies on Teng for teaching this feature (Ans. 4). The Examiner further takes Official Notice "that it was common practice in the art, at the time of the invention, to make the thickness of light sensitive layer of a flexographic printing plate 'between 0.5 and 2 mm'" (Ans. 5).

Appellants contend, among other things, Teng's semi-solid radiation-sensitive layer is very thin, approximately one micrometer; whereas the thickness of Appellants' light-sensitive material is three orders of magnitude larger—between 0.5 to 2 mm (App. Br. 10). Further, Appellants correctly note the Examiner did not provide support for the "Official Notice" taken regarding the thickness of the light sensitive layer (App. Br. 11).

We agree. The Examiner erred in finding Teng's disclosure of at least one micron "actually encompasses the claimed range of 0.5 to 2 mm," as a micron equals .001 mm, which is greater than two orders of magnitude outside Teng's range (Ans. 13). Thus, as Appellants assert, there is no

reason to apply Teng's method of crosslinking a very thin layer, to Appellants' method of photobleaching and crosslinking a thick light sensitive layer, as the record does not contradict that the two methods rely on different mechanisms and materials and achieve a different result (App. Br. 10; *see* Reply Br. 4-6)

For at least this reason, we conclude the Examiner erred in rejecting claims 1 and 28, and claims 2, 5, 13, 15-17, 19, 22-25, and 29, which depend therefrom, as obvious over AAPA and Teng.

The remaining cited references do not cure the deficiencies of AAPA and Teng. Thus, we further conclude claims 3, 4, 6-12, 14, 20, 21, 26, and 27 are also not obvious over the cited references.

DECISION

The Examiner's decision rejecting claims 1-17 and 19-29 is reversed.

REVERSED

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